

Key Steps in the Rulemaking Process

State agencies propose regulations "to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure." [Government Code section (GC §) 11342.600] The process by which regulations become adopted is governed by the Administrative Procedure Act (APA) and is commonly known as the State Rulemaking Process [see the Office of Administrative Law (OAL) *How to Participate in the Rulemaking Process* link at the bottom of this page].

The principal steps in the rulemaking process are as follows (in approximate chronological order):

- The proposing agency may conduct preliminary outreach activities, such as workshops.
- The agency prepares the required rulemaking documents and notifies interested parties.
- The Notice of the proposed action is published in the weekly *California Regulatory Notice Register (Register)*, published by OAL. In general, the rulemaking must be finalized within one year, although there can be a number of exceptions to this limit.
- The agency posts the rulemaking documents on its Internet website, as required by GC § 11340.85(c).
- The proposed regulations are open for public comment for at least 45 days. Anyone may request a public hearing if the agency did not schedule one (the request must be made at least 15 days prior to the comment deadline).
- Interested parties may submit written comments and/or present oral testimony at the hearing.
- The agency may prepare one or more sets of 15-day modifications to the originally proposed regulation text, based on public comments and/or its own initiative. Interested parties may submit additional comments on any 15-day changes.
- The agency prepares the final statement of reasons (FSOR) and submits the complete rulemaking record to OAL. The FSOR must include the agency's summary of and responses to all public comments.
- OAL reviews the rulemaking record for compliance with six legal criteria. OAL also reviews the adequacy of the agency's responses to comments. OAL then approves or disapproves the regulations.
- At any point in the process, the agency may decide to discontinue the rulemaking. If so, the agency must publish a Decision Not to Proceed in the *Register* and also post that decision on its website.
- The agency posts the FSOR on its website and makes the FSOR available to persons who request a copy.
- If OAL disapproves the regulations, the agency has 120 days to address the OAL concerns. (OAL may, for good cause, grant an extension to this 120-day period. In unusual cases, the agency may also file with the Governor's Legal Affairs Secretary a written Request for Review of an OAL disapproval decision.)
- If OAL approves the regulations, they are filed with the Secretary of State and become law.